

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FERNANDO LOPEZ, ADOLFO LOPEZ,
VENANCIO GALINDO, GIL SANTIAGO,

ANSWER TO AMENDED
COMPLAINT

Plaintiff,

07 CIV 6526 (SAS)

-against-

FLOR DE MAYO, INC., CHO FAMILIA DYNASTIA INC,
PHILIP CHU, DENNIS CHU and JOSE TSO,

Defendants
-----X

Defendants, Flor De Mayo, Inc., Cho Familia Dynastia Inc., Philip Chu, Dennis Chu and Jose Tso by their attorney, Robert V. Ferrari, as and for their answer to the complaint, alleges as follows:

1. Denies knowledge or information sufficient to form an opinion as to the truth or falsity of the allegations contained in paragraphs 37, 38, 39, 40, 41, 42, 43, and 44 of the complaint.

2. Denies each and every allegation contained in paragraph 1 of the complaint except admit that plaintiffs worked at various times after 2002.

3. Denies each and every allegation contained in paragraphs 2, 3, 4, 17, 18, 20, 29, 30, 31, 32, 34, 36, 46, 47, 48, 50, 51, 52, 55, 57, 59, 60, 61, 62, 63, 65, 66, 67, 69, 70, 71, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84 and 85 of the complaint.

4. Denies each and every allegation contained in paragraphs 8, 9, 10, 11 and 12 of the complaint, excepts admits that the plaintiffs were each employed by Flor de Mayo, Inc. at various times after 2002 and plaintiff Adolfo Lopez also worked briefly as a busboy at 2651 Broadway

5. Denies each and every allegation in paragraphs 23, 24, 49, 53, 54, 56, and 58 of the complaint and refers the statutory provisions referenced therein to the court for an interpretation of

their true meaning and import.

6. Denies each and every allegation repeated and realleged in paragraphs 64, 68, 72 and 76 of the complaint to the extent that such allegations have heretofore been denied at length herein.

7. Admits the allegations contained in paragraphs 5, 6, 7, 9, 13, 14, 15, 16, 19, 21, 22, 25, 26, 27, 28, 33, 35 and 45 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. Upon information and belief, the plaintiffs were and still are all 'undocumented aliens' as such term is defined under the federal immigration laws.

9. That by reason thereof, under such laws and federal immigration policy, plaintiffs cannot recover unpaid wages as demanded in the complaint.

10. In light of the foregoing, the complaint alleged by each of the plaintiffs must be dismissed.

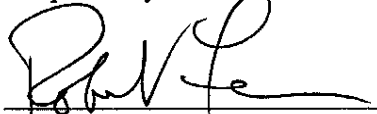
AS AND FOR A SECOND AFFIRMATIVE DEFENSE

11. A portion of plaintiffs' claims are barred by the applicable statute of limitations.

WHEREFORE, judgment is requested dismissing the complaint, together with the costs and disbursements of this action.

Dated: February 15, 2008

Respectfully submitted,



ROBERT V. FERRARI (4599)
Attorney for Defendants
630 Third Avenue, 16th Floor
New York, New York 10017
(212) 972-7040

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CIV NO. - CV6526

Year 2007

FERNANDO LOPEZ, ADOLFO LOPEZ, VENANCIO
GALINDO, and GIL SANTIAGO,

Plaintiff,

-against-

FLOR DE MAYO, INC., CHO FAMILIA DYNASTY PHILIP CHU,
DENNIS CHU and JOSE TSO,

Defendants.

ANSWER TO AMENDED COMPLAINT

ROBERT V. FERRARI

Attorney(s) for Defendants

Office and Post Office Address, Telephone

630 THIRD AVENUE, 16TH FLOOR
NEW YORK, NY 10017
(212) 972-7040
Fax: (212) 922-1939

To

Signature (Rule 130-1.1-a)

Print name beneath

ROBERT V. FERRARI

Service of a copy of the within is hereby admitted.

Dated: _____

Attorney(s) for

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

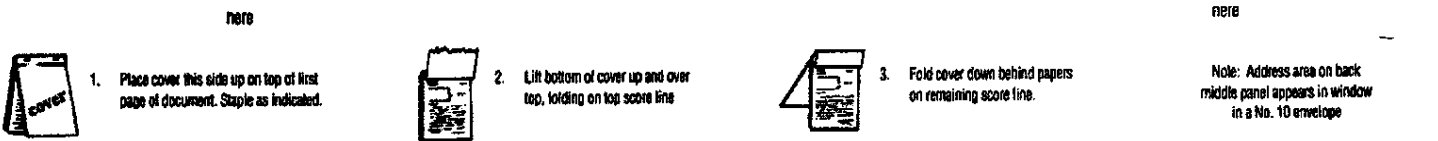
that an order
will be presented for settlement to the HON.
within named Court, at
on at M.

Dated,

of which the within is a true copy
one of the judges of the

Yours, etc.

ROBERT V. FERRARI



STATE OF NEW YORK, COUNTY OF

SS.:

I, the undersigned, an attorney admitted to practice in the courts of New York State,

☐ **Certification By Attorney** certify that the within has been compared by me with the original and found to be a true and complete copy.

☐ **Attorney's Affirmation** state that I am the attorney(s) of record for action; I have read the foregoing the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by

in the within and know the contents thereof;

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated:

.....
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF

SS.:

I, the undersigned, being duly sworn, depose and say: I am

☐ **Individual Verification** in the action; I have read the foregoing and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

☐ **Corporate Verification** the of corporation and a party in the within action; I have read the foregoing and know the contents thereof; and the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true. This verification is made by me because the above party is a corporation and I am an officer thereof.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

Sworn to before me on

.....
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF NEW YORK

SS.:

(If more than one box is checked—indicate after names type of service used.)

I, the undersigned, being sworn, say: I am not a party to the action, am over 18 years of age and reside at New York, New York

ANSWER TO AMENDED COMPLAINT

On February 18, 2008

I served the within

☒ **Service By Mail** by mailing a copy to each of the following persons at the last known address set forth after each name below.

☐ **Personal Service on Individual** by delivering a true copy of each personally to each person named below at the address indicated. I knew each person served to be the person mentioned and described in said papers as a party therein:

☒ **Service by Electronic Means** by transmitting a copy to the following persons by ☐ FAX at the telephone number set forth after each name below ☒ E-MAIL at the E-Mail address set forth after each name below, which was designated by the attorney for such purpose, and by mailing a copy to the address set forth after each name.

☐ **Overnight Delivery Service** by dispatching a copy by overnight delivery to each of the following persons at the last known address set forth after each name below.

Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
E-Mail Addresses:
Matteo J. Rosselli - matteo.rosselli@dpw.com

David Colodny - dcolodny@urbanjustice.org

Sworn to before me on February 18, 2008

.....
The name signed must be printed beneath

ALLISON DURING

ROBERT V. FERRARI
Notary Public, State of New York
No. 31-1200140
Qualified in New York County 2011